



BILLING CODE 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2014–N249; FF09E15000–FXHC112509CBRA1–156]

John H. Chafee Coastal Barrier Resources System; Collier County, FL; Availability of Draft Maps and Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of three John H. Chafee Coastal Barrier Resources System (CBRS) draft revised maps for public review and comment. The draft maps, all dated November 10, 2014, are for three existing CBRS units and two proposed new CBRS units located in Collier County, Florida.

DATES: To ensure consideration, we must receive your written comments by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Mail or hand-deliver (during normal business hours) comments to Katie Niemi, Coastal Barriers Coordinator, Division of Budget and Technical Support, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: ES, Falls Church, VA 22041, or send comments by electronic mail (email) to CBRAcomments@fws.gov.

FOR FURTHER INFORMATION CONTACT: Katie Niemi, Coastal Barriers Coordinator, (703) 358–2071 (telephone); or CBRA@fws.gov (email).

SUPPLEMENTARY INFORMATION:

Background

Coastal barriers are typically elongated, narrow landforms located at the interface of land and sea, and are inherently dynamic ecosystems. Coastal barriers provide important habitat for fish and wildlife, and serve as the mainland’s first line of defense against the impacts of severe storms. With the passage of the Coastal Barrier Resources Act (CBRA) in 1982 (Pub. L. 97–348), Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on coastal barriers, where severe storms are much more likely to occur, and the result has been the loss of natural resources; threats to human life, health, and property; and the expenditure of millions of tax dollars each year.

The CBRA established the CBRS, which comprised 186 geographic units encompassing approximately 453,000 acres of undeveloped lands and associated aquatic habitat along the Atlantic and Gulf of Mexico coasts. The CBRS was expanded by the

Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591) to include additional areas along the Atlantic and Gulf of Mexico coasts, as well as areas along the coasts of the Great Lakes, the U.S. Virgin Islands, and Puerto Rico. The CBRS now comprises a total of 856 geographic units, encompassing approximately 3.2 million acres of relatively undeveloped coastal barrier lands and associated aquatic habitat. These areas are depicted on a series of maps entitled “John H. Chafee Coastal Barrier Resources System.”

Most new Federal expenditures and financial assistance that would have the effect of encouraging development are prohibited within the CBRS. However, development can still occur within the CBRS, provided that private developers or other non-Federal parties bear the full cost, rather than the American taxpayers.

The CBRS includes two types of units, System units and Otherwise Protected Areas (OPAs). System units generally comprise private lands that were relatively undeveloped at the time of their designation within the CBRS. Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within System units. OPAs generally comprise lands established under Federal, State, or local law or held by a qualified organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. OPAs are denoted with a “P” at the end of the unit number. The only Federal spending prohibition within OPAs is the prohibition on Federal flood insurance.

The Secretary of the Interior (Secretary), through the Service, is responsible for administering the CBRA, which includes maintaining the official maps of the CBRS, consulting with Federal agencies that propose to spend funds within the CBRS, preparing

updated maps of the CBRS, and making recommendations to Congress regarding proposed changes to the CBRS. Aside from three minor exceptions, only Congress—through new legislation—can modify the maps of the CBRS to add or remove land. These exceptions, which allow the Secretary to make limited modifications to the CBRS (16 U.S.C. 3503(c)–(e)), are for: (1) Changes that have occurred to the CBRS as a result of natural forces, (2) voluntary additions to the CBRS by property owners, and (3) additions of excess Federal property to the CBRS.

Comprehensive Remapping Approach

When the Service is asked to determine whether a proposed change to remove land from the CBRS constitutes an appropriate technical correction, we consider whether the original intent of the boundaries is reflected on the maps (i.e., whether the lines on the maps appropriately follow the features they were intended to follow on the ground). We also consider the level of development that was on the ground when the area was originally included in the CBRS by Congress. The CBRA requires that we consider the following criteria when assessing the development status of a CBRS unit: (1) The density of development on an undeveloped coastal barrier is less than one structure per 5 acres of land above mean high tide; and (2) an undeveloped coastal barrier does not contain a full complement of infrastructure, which would include a road, fresh water supply, wastewater disposal system, and electric service for each lot or building site. These criteria were originally published in a notice in the **Federal Register** by the Department of the Interior in 1982 and were later codified by Congress in the 2000 reauthorization of the CBRA (section 2 of Pub. L. 106–514).

The Service does not support removing land from the CBRS, unless there is compelling evidence that a mapping error was made. In cases where mapping errors are found, the Service supports changes to the maps and works with Congress and other interested parties to create comprehensively revised maps using modern digital technology.

When the Service finds a technical mapping error that warrants a change in one part of a CBRS map, we review all adjacent areas to ensure that the entire map is accurate. The Service strongly believes that instead of pursuing targeted changes to CBRS maps, Congress should enact comprehensively revised CBRS maps. This comprehensive approach to map revisions treats equitably all landowners who may be affected. It is also more efficient and cost effective in the long run because it ensures that all legitimate errors are corrected and any new areas appropriate for inclusion within the CBRS are identified (per a directive in section 4 of Pub. L. 109–226) at the same time, so that the Service and Congress will not have to revisit the same map in the future.

Proposed Changes to the CBRS in Florida

The Service has prepared comprehensively revised draft maps for Cape Romano Unit P15, Keewaydin Island Unit P16, and Tigertail Unit FL–63P, all of which are dated November 10, 2014. The draft maps also include two proposed new OPAs, Cape Romano Unit P15P and Keewaydin Island Unit P16P, which are within the vicinity of the existing units and contain undeveloped coastal barrier lands and associated aquatic habitat. The draft maps for Units P15/P15P, P16/P16P, and FL–63P remove approximately 99 acres from the CBRS (73 acres of uplands and 26 acres of associated

aquatic habitat) and add approximately 17,143 acres to the CBRS (442 acres of uplands and 16,701 acres of associated aquatic habitat). The draft maps remove areas that were inappropriately included within the CBRS in the past and add areas that meet the CBRA criteria for inclusion within the CBRS. The draft maps also reclassify certain areas from System unit to OPA, and vice versa, in accordance with the Service's standard CBRS remapping protocols and with consideration given to input provided by landowners.

The proposed boundary of Unit P15 does not remove any areas from the CBRS. The proposed boundary of the unit is modified to add to the CBRS areas that meet the CBRA criteria for an undeveloped coastal barrier, including areas owned by the Service that are part of the Ten Thousand Islands National Wildlife Refuge; areas owned by the State of Florida (State) that are part of the Cape Romano–Ten Thousand Islands Aquatic Preserve, Rookery Bay Aquatic Preserve (RBAP), and Rookery Bay National Estuarine Research Reserve (RBNERR); and some privately owned areas on the southeastern side of Horrs Island and along Barfield Bay. The proposed boundary of the unit does not include within the CBRS portions of Horrs Island (also known as Key Marco), where the existing level of development exceeds the development threshold codified by the Coastal Barrier Resources Reauthorization Act of 2000 (section 2 of Pub. L. 106–514).

The proposed boundary of Unit P16 is modified to remove from the CBRS the Royal Marco Point, La Peninsula, and Twin Dolphins condominium complexes, and a few private homes on the Isles of Capri. The proposed boundary of the unit is also modified to add to the CBRS areas that meet the CBRA criteria for an undeveloped coastal barrier, including areas owned by the National Audubon Society, areas owned by the State that are part of RBAP and RBNERR, submerged areas in Tarpon Bay owned by

Collier County, and some privately owned areas (including a mangrove island, portions of the “Isles of Collier Preserve” Planned Unit Development, and areas owned by the Hideaway Beach Association). Portions of Sand Dollar Island that are owned by the State and are currently within Unit FL-63P are proposed for reclassification to Unit P16. The Service’s review found no documentation indicating that this area is held for conservation or recreation (in accordance with the CBRA definition of an OPA); however, it does meet the criteria for a System Unit. There is also a portion of Sand Dollar Island that is proposed for addition to Unit P16; this portion is currently located outside of the CBRS between Unit FL-63P and Unit P16.

The proposed boundary of Unit FL-63P is modified to remove from the CBRS several structures in the South Seas Club community and more precisely follow the boundary of Tigertail Beach Park, which is owned by Collier County. Portions of Sand Dollar Island that are owned by the State and are currently within Unit FL-63P are proposed for reclassification to Unit P16.

The proposed boundary of Unit P15P includes within the CBRS areas owned by the State that are part of the RBNERR, minor portions of the RBAP owned by the State, and areas owned by the Key Marco Community Association that are subject to a conservation easement. There are no known private inholdings within the proposed boundaries of Unit P15P.

The proposed boundary of Unit P16P includes within the CBRS areas owned by the State that are part of the RBNERR; minor portions of the RBAP owned by the State; areas owned by the City of Naples that are subject to a conservation easement; the Shell Island Preserve, and other conservation areas in Tarpon Bay that are owned by Collier

County; and a private inholding at the northern end of Henderson Creek that is completely surrounded by the RBNERR.

Proposed Additions to the CBRS

The draft maps for Units P15/P15P, P16/P16P, and FL–63P propose additions to the CBRS that are consistent with a directive in section 4 of Pub. L. 109–226 concerning recommendations for expansion of the CBRS. The proposed boundaries depicted on the draft maps for Florida are based upon the best data available to the Service at the time the draft maps were created. Our assessment indicated that any new areas proposed for addition to the CBRS were relatively undeveloped at the time the draft maps were created.

Section 2 of Pub. L. 106–514 codified the following guidelines for what the Secretary shall consider when making recommendations to the Congress regarding the addition of any area to the CBRS and in determining whether, at the time of inclusion of a System unit within the CBRS, a coastal barrier is undeveloped: (1) The density of development is less than one structure per 5 acres of land above mean high tide; and (2) there is existing infrastructure consisting of a road, with a reinforced road bed, to each lot or building site in the area; a wastewater disposal system sufficient to serve each lot or building site in the area; electric service for each lot or building site in the area; and a fresh water supply for each lot or building site in the area.

If, upon review of the draft maps for Florida, interested parties find that any areas proposed for addition to the CBRS currently exceed the development threshold established by section 2 of Pub. L. 106–514, they may submit supporting documentation

of such development to the Service during this public comment period. For any areas proposed for addition to the CBRS on the draft maps, we will consider the density of development and level of infrastructure on the ground as of the close of the comment period on the date listed in the **DATES** section.

Request for Comments

Section 4 of Pub. L. 109–226 requires the Secretary to provide an opportunity for the submission of public comments. We invite the public to review and comment on the draft maps dated November 10, 2014 for CBRS Units P15/P15P, P16/P16P, and FL–63P. The Service is specifically notifying the following stakeholders concerning the availability of the draft revised maps: The Chair and Ranking Member of the House of Representatives Committee on Natural Resources; the Chair and Ranking Member of the Senate Committee on Environment and Public Works; the members of the Senate and House of Representatives for the potentially affected areas; the Governor of Florida; other Federal, State, and local officials; and nongovernmental organizations.

Interested parties may submit written comments and accompanying data to the individual and location identified in the **ADDRESSES** section. The Service will also accept digital Geographic Information System (GIS) data files that are accompanied by written comments. Comments regarding specific units should reference the appropriate CBRS unit number and unit name. We must receive comments on or before the date listed in the **DATES** section.

Following the close of the comment period on the date listed in the **DATES** section, we will review all comments received on the draft maps and we will make

adjustments to the draft maps, as appropriate, based on information received through public comments, updated aerial imagery, CBRA criteria, and objective mapping protocols. We will then prepare final recommended maps to be submitted to Congress. The final recommended maps will become effective only if they are enacted by Congress through legislation.

Availability of Draft Maps and Related Information

The draft maps, unit summaries (containing historical and more detailed information regarding proposed changes to the units), and digital boundary data can be accessed and downloaded from the Service's Web site: <http://www.fws.gov/CBRA>. The digital boundary data are available for reference purposes only. The digital boundaries are best viewed using the base imagery to which the boundaries were drawn; this information is printed in the title block of the draft maps. The Service is not responsible for any misuse or misinterpretation of the digital boundary data.

Interested parties may also contact the Service individual identified in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements to view the draft maps at the Service's Headquarters Office. Interested parties who are unable to access the draft maps via the Service's Web site or at the Service's Headquarters Office may contact the Service individual identified in the **FOR FURTHER INFORMATION CONTACT** section, and reasonable accommodations will be made to ensure the individual's ability to view the draft maps.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 27, 2015.

Gary Frazer,

Assistant Director for Ecological Services.

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